

in on whom they trust to nominate the next person for a lifetime appointment to the Supreme Court.”

In the midst of an election process, February before the election, but now we are not? Now these words don’t apply? It doesn’t pass the smell test in any way. No wonder Leader MCCONNELL was so defensive in his comments.

At a press conference on March 1, 2016, Leader MCCONNELL said that “we will look forward to the American people deciding who they want to make this appointment through their own votes.”

And on the floor, March 16, 2016, MCCONNELL said that “our view is this: give the people a voice in the filling of this vacancy.”

That was 8 months—more than 8 months from a national election. This is 44 days. The Senate has never confirmed a nominee to the Supreme Court this close to a Presidential election.

If that was how Leader MCCONNELL and Senate Republicans justify their mindless obstruction of President Obama’s nominee, surely they must abide by their own standard. What is fair is fair. What is fair is fair. A Senators’ word must count for something.

Senator MCCONNELL has come to the floor numerous times to say that “your word is the currency of the realm in the Senate.” That quote: “It is important for all Senators to keep their word, but it is particularly important for the majority leader.”

Leader MCCONNELL said those things.

My friend, the distinguished chairman of the Judiciary Committee, sensed that this situation might arise and made it crystal clear how he would behave if the shoe were on the other foot. He said:

I want you to use my words against me.

If there’s a Republican president in 2016 and a vacancy occurs in the last year of the first term, you can say Lindsey Graham said let’s let the next president, whoever it might be, make that nomination.

He reiterated that view less than 2 years ago and encouraged the audience to “hold the tape” for exactly this situation.

No wonder Americans have so little faith in governing and in this Senate led by the Republican majority. We now know the entire thing was a farce, not a shred of credibility to those arguments. We have the exact scenario that Chairman GRAHAM talked about—a Republican President and a Supreme Court vacancy in the last year of the first term. Indeed, it is almost the last month of his first term.

“I want you to use those words against me,” he said. “You can say LINDSEY GRAHAM said the next president, whoever it might be, should make the nomination.”

Well, here we are. And despite these words, despite their supposedly noble principle that the American people should have a voice in the decision of the next Supreme Court Justice, President Trump, Leader MCCONNELL, and

Chairman GRAHAM have already announced they will ignore their own standard and will rush to confirm a new Justice before the next President is installed—a Justice that could tear down Justice Ginsburg’s life’s work and other critical laws, like the Affordable Care Act.

The kind words and lamentations we just heard from the majority leader about Justice Ginsburg are totally empty, totally meaningless if he moves to appoint someone who will tear down everything Justice Ginsburg built.

Leader MCCONNELL put the Senate on “pause” for over 4 months while COVID-19 devastated our country, but now he will move Earth and Heaven, and ignore all principle and consistency, to install a new Supreme Court Justice who could rip away Americans’ healthcare in the middle of a pandemic.

Leader MCCONNELL and Chairman GRAHAM have made a mockery of their previous position. They seem ready to show the world their word is simply no good. It is enough to make your head explode. And then to hear Leader MCCONNELL up on the floor trying to defend this—pathetic, pathetic.

Why even bother instructing a pretense for your position? Why say it is this rule or that rule and then do the exact opposite when it suits your interests? Why not just come to the floor and say: I’m going to do whatever is best for my political party. Consistency be damned. Reason be damned. Democracy be damned.

Just admit it. There is no shaping the cravenness of this position. But over the course of the debate, I know the Republican leadership is going to try. We are going to hear some crazy things from the other side to defend the indefensible and justify this unjustifiable power grab. We heard some of it already, a few minutes ago.

We are going to hear a series of preposterous arguments; that it somehow has to do with the orientation of the Senate and Presidency, as if that constitutes some legitimate principle. We will hear that Republicans have to do it because Democrats will do far worse, unnamed things in the future.

Some—some—few on that side will at least have the dignity of putting their head down and plowing through with it because they know there is no reason—no reason, no argument, no logic—to justify flipping your position 180 degrees and calling it some kind of principle. It is not. It is utterly craven, an exercise in raw political power and nothing more.

I worry. I worry for the future of this Chamber if the Republican majority proceeds down this dangerous path.

If a Senate majority over the course of 6 years steals two Supreme Court seats using completely contradictory rationales, how could we expect to trust the other side again?

How can we trust each other if, when push comes to shove and when the stakes are the highest, the other side

will double-cross their own standards when it is politically advantageous? Tell me how. Tell me how this would not spell the end of this supposedly great deliberative body because I don’t see how.

There is only one way for this Chamber to retain its dignity through this difficult chapter. There is only one way for us to have some hope of coming together again, trusting each other again, lowering the temperature moving forward, and that is for four brave Senate Republicans to commit to rejecting any nominee until the next President is installed. That was Justice Ginsburg’s dying wish. It may be the Senate’s only last hope.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The bill clerk read the nomination of Edward Hulvey Meyers, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

REMEMBERING JUSTICE RUTH BADER GINSBURG

Mr. LEAHY. Mr. President, I am here with an incredibly heavy heart. Justice Ruth Bader Ginsburg—a tireless, legendary champion of equality who reshaped our society for the better—passed away on Friday, the first eve of Rosh Hashanah. Adherents of the Jewish faith believe that a person who passes away during the High Holidays is a person of great righteousness. Truer words could not be spoken of Justice Ginsburg. Standing just over 5 feet tall, she was a giant among us, a moral beacon whose life and legacy have inspired millions of Americans to do their part to bring upon a more perfect and just union. We are all forever indebted to her.

The Brooklyn-born daughter of working-class Jewish parents, the young girl who would become just the second woman to serve on the Supreme Court knew from early on she had to fight for a place in the world. And what a fighter she was.

When she entered Harvard Law School in 1956, just 1 of 9 women in a class of over 500, the United States was truly a man’s world. Women were expected to stay home and out of the workplace. Even when they had jobs, they could be fired for getting pregnant

and they otherwise earned barely half of what men earned for the same work. Women couldn't get credit cards without their husband's consent. As Justice Ginsburg remarked some years later, these and other gender-based rules helped to "keep women not on a pedestal, but in a cage."

Justice Ginsburg refused to accept the status quo. She believed unwaveringly that equal justice under law fundamentally required gender equality. When she joined the ACLU's Women's Rights Project in the early 1970s, she waged a systematic legal campaign against gender discrimination, and she ultimately won five out of six of the cases she took to the Supreme Court. She eloquently and incisively convinced the then all-male Court to see—and strike down—the visible and invisible lines that kept the genders unequal.

In *Reed v. Reed*, she convinced the Supreme Court for the very first time that the Equal Protection Clause of the 14th Amendment barred discrimination on the basis of sex, enshrining constitutional protections for generations of women and men. During oral arguments, she spoke quietly yet confidently, piercing through dense legal arguments with moral clarity.

In *Frontiero v. Richardson*, in which she convinced the Court to end gender discrimination in the administration of military benefits, her words resonate powerfully today. She said:

In asking the Court to declare sex a suspect criterion . . . "I ask no favor for my sex. All I ask of our brethren is that they take their feet off our necks."

Within a few short years, Justice Ginsburg had already empowered millions of American women through her zealous advocacy, granting them more autonomy over their lives, their bodies, and their careers. She was widely hailed as the Thurgood Marshall of women's rights. She could have simply rested on her laurels from that point forward.

She was just getting started. In 1980, President Carter nominated her to be an appellate judge on the DC Circuit. I was so proud to vote for her confirmation back then, 40 years ago. There she developed a reputation as a pragmatic consensus seeker, often finding common ground and building friendships with conservative judges. One of the best known of those friendships was hers and Justice Antonin Scalia.

It was no surprise that in 1993, President Bill Clinton selected Ruth Bader Ginsburg to be Justice of the Supreme Court. He called her—and I am rather proud to say that she and her husband were visiting Vermont, my home State, when she received the call. I still vividly remember her confirmation hearings before the Senate Judiciary Committee as head Judiciary of the committee. She was the embodiment of humility and grace and strength and wisdom. She endured 4 long days of, at times, intense questioning from Senators of both sides of the aisle. Never

once did she lose her poise. I remember that so well. I thanked her for fighting for a world in which my daughter would have opportunities equal to those of my two sons. Unsurprisingly, she was confirmed by a 96-to-3 vote, becoming just the second woman to ascend to our Nation's highest Court. My vote for her confirmation to the Supreme Court is among the most consequential and impactful I have cast as a Senator.

This weekend, my wife Marcelle and I drove here to the Capitol. We walked over to the Supreme Court. We saw all the people around writing notes in chalk on the sidewalk, praising her, leaving flowers, leaving pictures. I really was struck by the number of teenagers and people probably in their early twenties who were just standing there sadly. I talked to a couple. We were all wearing our masks. I am sure they had no idea who I was. I talked to them. They all said in one word or another: She was our inspiration.

I think of my own daughter when, a year ago, Justice Ginsburg was being honored by a congressional group against cancer. She asked my wife to introduce her. My wife is a cancer survivor. My wife brought our daughter as her guest, and they sat there. My daughter has told me so many times that it was one of the most meaningful times in her life to sit with a woman who had always been her hero. Marcelle and I just stood there in silence and thought of the memories of the times we had been with her and what she has done for this country.

Over the course of nearly three decades, Justice Ginsburg secured a place as one of the most ardent defenders of equal rights for all Americans in Supreme Court history. She never tired of being a voice for the voiceless. She always tried to use her power—her power—to uplift the powerless. She authored the landmark majority opinion in *United States v. Virginia*, which struck down the Virginia Military Institute's male-only admissions policy as being unconstitutional. Her words still read like a treatise on what equality must mean in America: Laws or policies are "presumptively invalid," she wrote, if they "den[y] to women, simply because they are women, equal opportunity to aspire, achieve, participate in, and contribute to society." I think of my wife and my daughter, and I think of my three wonderful granddaughters.

Even when she was in the minority, Justice Ginsburg did not go quietly. She always left an impact. In the *Lilly Ledbetter* case, where the majority ruled the claim of unequal pay was barred by an arbitrary statute of limitations, Justice Ginsburg retorted that the majority "does not comprehend, or is indifferent to, the insidious way in which women can be victims of pay discrimination." She urged Congress to correct the Court's "parsimonious reading." Two years later, we did just that. We passed the *Lilly Ledbetter*

Fair Pay Act, a copy of which she proudly hung in her chambers. It is a bill that I was so proud to help bring to fruition on the floor of this body.

In *Shelby County v. Holder*, the disastrous decision to validate key provisions of the Voting Rights Act, Justice Ginsburg's dissent spoke truth to power. She wrote that throwing out key provisions of the Voting Rights Act "when it has worked . . . to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet."

Of course, Justice Ruth Bader Ginsburg was right. Since that decision, we have witnessed a torrent of voter suppression laws because the Supreme Court did not listen to her. That is why I championed the bipartisan John Lewis Voting Rights Advancement Act to restore the Voting Rights Act. These drives for change, and many others, often began with two words from the Justice wearing the bejeweled collar: "I dissent."

All the greatness of Justice Ginsburg was matched in spades by her authentic goodness. I will always remember the Action for Cancer Awareness event I mentioned earlier that she and my wife Marcelle spoke at together last year. She was so genuinely kind to Marcelle, to me, and to all the people she interacted with. She loved people, so it is not surprising they loved her right back. It is not surprising. We saw tears in people who knew her and didn't know her as we stood in front of the Supreme Court this weekend.

Justice Ginsburg became a beloved cultural icon, inspired books, movies, and even "Saturday Night Live" skits. Some of us did tease her about that, and she took it all in good humor. Her dogged public battle with cancer and her can-do attitude—in fact, she missed less than a handful of arguments despite her yearslong illness—inspired millions across the world. She gave hope to people she would never see and never meet, but they felt they knew her, and she gave them hope. Through it all, she never lost her humility.

When asked how she would like to be remembered, Justice Ginsburg simply said: "Just as someone who did whatever she could, with whatever limited talent she had, to move society along in the direction I would like it to be for my children and grandchildren."

I am proud to stand on the floor of the Senate, as dean of this body, and say with certainty that she is going to be remembered for that and for so much more. She will be remembered long after any of us are.

This incredible life and legacy should be the only story of today. Sadly, that is not the case. Instead of celebrating her life and her many contributions to our society, President Trump and the majority leader have forced our attention to turn to her vacancy on the Court days before she has even been laid to rest.

In fact, immediately after the news of her passing, Senator MCCONNELL announced that he would rush to replace

her on the Court. Even as her family was standing there, mourning her, he made that announcement. He tossed aside all precedents and principles and declared his intent to ram through a nominee no matter the cost. Despite all of Senator MCCONNELL's talk and promises 4 years ago—that, when a vacancy arises 269 days before a Presidential election, the American people should have a voice in deciding which President fills that vacancy, which is what he said when President Obama was the President—the majority leader is doing everything he can today to deny the American people a voice and, this time, with not 269 days but just 42 days remaining before a Presidential election.

Seeking a fig leaf of institutional cover, the leader is trying to conjure up yet another rule today that, essentially, there was an unspoken exception to everything he promised in 2016. I guess I didn't hear that unspoken exception. Apparently, the American people do not get a voice when the White House and Senate are under the control of the same party.

Pay no attention to the fact that this contradicts everything Leader MCCONNELL and many other Republicans claimed to believe ad nauseam for 10 months in 2016. Yet even this desperate hair splitting falls flat on its face. If the majority leader's 2016 rule to let the American people decide only applies when there is a divided government, then the unprecedented 10-month blockade of Merrick Garland contradicted the confirmation of Justice Kennedy by a Democratic Senate during the election year of 1988. As did virtually every other Democrat, I was one who voted for this Republican nominee.

The majority leader's abrupt about-face is not about following precedent, and it certainly isn't about principle. The blatant hypocrisy—and the belief that norms and principles apply only to the other party or apply only when nothing is at stake—is the result of something even more insidious. It is the direct result of the President's and the majority leader's wanting to bend the courts to their will no matter the cost—no matter the cost for the Senate and, certainly, no matter the cost for all of our courts across the country.

I will have much more to say about this. Make no mistake, the actions that we take during these waning days of the Trump administration will forever stain or redeem this institution in which we proudly serve depending on whether we go along with this or not. The 100 Members of this body represent 330 million Americans. We are entrusted to act in their best interests. Through our actions in the weeks ahead, we risk forever eroding the American people's trust and faith in our independent judiciary, and our actions will have a lasting impact for good or for ill on every American's most basic rights—the rights of equality and fairness—that Justice Ginsburg spent her lifetime securing.

We all know what we should do. We all know how we can make the U.S. Senate be as it should be—the conscience of the Nation. I fear that we are willing to close America's door on that conscience. Yet, today, I simply seek to honor Justice Ginsburg. She dedicated her life to the causes of equality and justice and made both a reality for millions of Americans. She has left us a rich legacy to cherish and, more importantly, to carry forward. We will be forever in her debt. A generation—actually, more than a generation—of women and all Americans have been inspired by her leadership and courage. Generations to come will have her trailblazing legacy to thank. Let's honor her memory by following her example, by recommitting ourselves to pursuing a more perfect union not just for the few—no, not just for the few—but for all Americans.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. ERNST). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING JUSTICE RUTH BADER GINSBURG

Mr. CORNYN. Madam President, on Friday evening, the Nation learned the sad news that Justice Ruth Bader Ginsburg had passed away.

From her time as one of the few women in the Ivy League, to being only the second woman ever appointed to the Supreme Court of the United States, Justice Ginsburg was and is an inspiration to generations of Americans.

Throughout her remarkable life, Justice Ginsburg fought to secure equal rights and opportunities for all. She was a champion of women's rights in particular and broke down gender barriers throughout both her personal life and professional career.

During this difficult and often divisive time, I think there is a lot we can learn from the way Justice Ginsburg interacted with those with whom she disagreed, especially her good friend the late Justice Scalia. If you looked at a diagram outlining the ideologies of these two Justices, these two would be at opposite poles. They shared very little in common in terms of the way they approached the job of being a Supreme Court Justice.

She was once asked about their close relationship, which stood in contrast to their vastly different views, and she said: "You can disagree without being disagreeable." Well, we have all heard that before, and it is absolutely true—unfortunately, not practiced enough. But I think that sort of approach should be a reminder to all of us about the importance of treating each other with civility and respect, even when the person standing in front of you or on the opposite side of a computer

screen has a vastly different world view from our own.

Our Nation is grateful for Justice Ginsburg's 27 years on the High Court and her incredible contributions to our history. Sandy and I send our condolences to the entire Ginsburg family, as well as the countless colleagues and friends she earned throughout her lifetime.

As Leader MCCONNELL said this morning, the Senate is preparing to fulfill our constitutional duty of advice and consent. Throughout history, there has been a Supreme Court vacancy 29 times during a Presidential election year, and each time, the President has fulfilled his duty to put forth a nomination. Of those 29 election-year instances, 19 occurred when the President and the Senate majority were of the same political party. All but two of those nominees were confirmed.

Our friends on the other side of the aisle have tried to compare this to the vacancy in 2016, but the facts were different. At that point, we had a President of one party in his final year in office and a Senate majority of another party. You would literally have to go back to 1880 to find an example of the Senate confirming an opposite party President's Supreme Court nominee during an election year.

The other difference is that President Obama was not on the ballot in 2016, so it made sense for the American people to weigh in. Do you think we would still be hearing the same arguments from our friends across the aisle if Hillary Clinton had become President and been able to nominate a successor to Justice Scalia? I think not.

Voters cast their ballots and not only elected President Trump but also a Senate Republican majority. In 2018, they expanded that majority following the confirmation of Judge Kavanaugh. If the American people had elected a Democratic President and a Democratic Senate majority, I have no doubt that Senator SCHUMER would act on that nomination as well.

Just as the Senate has always done, we will thoroughly review the qualifications and experience of whomever the President nominates. We should not rush that process. It should be conducted carefully and consistently with how the Senate has previously handled Supreme Court nominations. When that process is complete, the Senate will vote on that nominee sometime this year.

In some cases, the confirmation process has moved quickly. In the case of Justice Ginsburg, she was confirmed in only 42 days. In others, the process has taken longer and been significantly more contentious.

I hope our colleagues on the other side of the aisle will try to restrain themselves from repeating the smear campaign that took place during Judge Kavanaugh's confirmation hearing, including the Judiciary Committee hearing. I hope they will refrain from making threats, like threats of packing the